

To: Kissinger, Lon[Kissinger.Lon@epa.gov]; Chung, Angela[Chung.Angela@epa.gov]; Macchio, Lisa[Macchio.Lisa@epa.gov]; Szalay, Endre[Szalay.Endre@epa.gov]
From: Szelag, Matthew
Sent: Fri 3/17/2017 6:23:18 PM
Subject: RE: RTOC Standing Issues Update - March 2017 Request. Updates requested by March 23.

Hi Angela,

Thanks, I think the summaries look good.

To Lon's point, I completely agree those are some of the main issues the group is grappling with and need further discussion, which is good information for you to know if questions come up at the RTOC. Many of these issues were discussed at the last meeting in February, although I wouldn't say they were resolved in any way. That said, we don't have a detailed agenda yet for the April meeting, but you captured the two main items listed on the meeting invite.

On the Washington summary, I thought about adding in that the NWEA complaint only applies to arsenic, thallium, and dioxin for human health. But, that's probably more detail than necessary though and something that can be relayed verbally if questions come up.

Thanks,

Matthew Szelag | Water Quality Standards Coordinator

U.S. Environmental Protection Agency | Region 10

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From: Kissinger, Lon
Sent: Friday, March 17, 2017 10:05 AM
To: Chung, Angela <Chung.Angela@epa.gov>; Macchio, Lisa <Macchio.Lisa@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>
Subject: RE: RTOC Standing Issues Update - March 2017 Request. Updates requested by March 23.

Hi Angela,

For Alaska, I think

Ex. 5 - Deliberative Process

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For Idaho, do you want to mention Tibbets' letter asking EPA to act on the State package?

Regards,

Lon

From: Chung, Angela

Sent: Friday, March 17, 2017 10:18 AM

To: Macchio, Lisa <Macchio.Lisa@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>; Kissinger, Lon <Kissinger.Lon@epa.gov>

Subject: FW: RTOC Standing Issues Update - March 2017 Request. Updates requested by March 23.

Hi Folks,

Its that time again for me to update the RTOC standing issues. Here's what I've revised. I'm particularly interested in whether folks think we should include the level of detail in the Idaho write-up. The other ones seem straight-forward. Let me know if you have any edits, thanks.

Fish Consumption Rate (FCR)/Human Health Water Quality Standards

(EPA Contact: Angela Chung)

Alaska: Alaska DEC will be hosting a technical workgroup meeting, to support its human health criteria work, on April 12, 2017. The meeting agenda will focus on human consumption of marine mammals and implementation tools. EPA is continuing to evaluate a response to the

November 12, 2015 petition from the Southeast Alaska Conservation Council (SEACC) requesting that EPA revise the fish consumption rate and cancer risk rate that Alaska's current human health criteria are based on. EPA also received a letter of support reiterating the request in the SEACC petition from the Chickaloon Native Village on December 16, 2015.

Idaho: IDEQ's revised human health water quality criteria were adopted by the 2016 Idaho legislature and became effective for state purposes on March 25, 2016. On December 13, 2016, IDEQ submitted their final criteria package to the EPA for Clean Water Act (CWA) review. On January 19, 2017, EPA sent a letter to IDEQ with preliminary review comments on their December 2016 submittal. EPA is continuing its CWA review and consulting with tribal governments. A settlement agreement between EPA and the Idaho Conservation League requires EPA to act on the state submittal and/or propose a federal rule within six months of receiving Idaho's submittal (by June 13, 2017). On February 13, 2017, the Idaho Conservation League sent an email to EPA describing its interest in ensuring that stakeholders had sufficient time to review IDEQ's submittal and indicating that, if EPA was not able to adhere to the June 13 deadline, ICL would not intend to seek to enforce the related aspects of the settlement agreement and/or seek any remedies outlined in the agreement, for the foreseeable future. As a result, the settlement agreement may be amended.

Oregon: In 2011, EPA approved Oregon's water quality standards, which were generally based on a FCR of 175 grams/day and a 10⁻⁶ cancer risk level.

Washington: On November 15, 2016, Administrator McCarthy signed a final rule revising the federal Clean Water Act human health criteria applicable to waters under Washington's jurisdiction to ensure that the criteria are set at levels that will adequately protect fish consumers in Washington from exposure to toxic pollutants. Concurrent with the final rule, EPA completed its action under the CWA to approve in part, and disapprove in part, human health criteria submitted by Washington to EPA on August 1, 2016. More information on EPA's actions on Washington water quality standards can be found at the following EPA website: <https://www.epa.gov/wqs-tech/water-quality-standards-regulations-washington#fed>. On February 21, 2017, EPA received a petition for reconsideration of EPA's partial disapproval of Washington's HHC and for repeal of EPA's final rule from Washington business groups. Also on February 21, 2017, Northwest Environmental Advocates filed a complaint alleging EPA failed to respond to its 2013 petition for federal rulemaking to update Washington's toxics criteria to protect human health and aquatic life. EPA is currently reviewing the petitions and complaint.

Angela Chung
Water Quality Standards Unit Manager
U.S. Environmental Protection Agency
1200 Sixth Ave, Suite 900, OWW 191
Seattle, WA 98101
Phone: 206-553-6511

From: Davis, Michelle V.

Sent: Thursday, March 16, 2017 4:31 PM

To: Young, Margo <Young.Margo@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Cox, Michael <Cox.Michael@epa.gov>; Littleton, Christine <Littleton.Christine@epa.gov>; McGrath, Patricia <mcgrath.patricia@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; Herbst, John <herbst.john@epa.gov>; Sheldrake, Beth <sheldrake.beth@epa.gov>; davis.zhen@epa.gov; Grandinetti, Cami <Grandinetti.Cami@epa.gov>

Cc: Williamson, Ann <Williamson.Ann@epa.gov>; Brown, Katherine <Brown.Katherine@epa.gov>

Subject: RTOC Standing Issues Update - March 2017 Request. Updates requested by March 23.

Hello everyone;

As you may know, the next RTOC in person meeting will be March 27th & 28th. I am helping with meeting preparations, including gathering up the Standing Issues updates. Instead of email documents traveling back and forth, I'd like to see if OneDrive could make our lives easier. I used the last SI as a starting point, it should be easy to go in and update your section. Below is the link. If you have problems, let me know and we can use email. Can you have yours back to me by Thursday, March 23?

https://usepa-my.sharepoint.com/personal/davis_michellev_epa_gov/_layouts/15/guestaccess.aspx?guestaccesstoken=C4XPA

If you see that someone has been omitted from the list, please forward. The link allow anyone to make edits. Slightly scary, but hopefully convenient. Like Uber for documents.

Best, Michelle

From: Herbst, John

Sent: Tuesday, November 22, 2016 4:00 PM

To: Young, Margo <Young.Margo@epa.gov>; Chung, Angela <Chung.Angela@epa.gov>; Cox, Michael <Cox.Michael@epa.gov>; Davis, Michelle V. <Davis.MichelleV@epa.gov>; Littleton, Christine <Littleton.Christine@epa.gov>; Marcy, Ken <Marcy.Ken@epa.gov>; Peterson, Erik <Peterson.Erik@epa.gov>; 'Thomas, Sally' <thomas.sally@epa.gov>; Sheldrake, Beth <sheldrake.beth@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Grandinetti, Cami <Grandinetti.Cami@epa.gov>

Cc: Williamson, Ann <Williamson.Ann@epa.gov>; Brown, Katherine <Brown.Katherine@epa.gov>

Subject: RTOC Standing Issues Update - Dec. 2016 Request

Hello,

The next RTOC Quarterly Meeting will be on December 13-15th, 2016 hosted by Region 10. In preparation for this meeting, please review the information below and send me any updates that you would like to share with the RTOC by **Thursday, December 8th**.

Happy Thanksgiving!

JR

RTOC Standing Issues – EPA Updates (September 2016)

Pebble Mine/404c

(EPA Contact: Margo Young)

On January 13, 2016, the EPA OIG released its final report from a 17-month in-depth evaluation of EPA's Bristol Bay Watershed Assessment finding:

- ☐ ☐ ☐ ☐ ☐ ☐ No evidence of bias in how the EPA conducted the Bristol Bay Watershed Assessment.
- ☐ ☐ ☐ ☐ ☐ ☐ No evidence that the EPA pre-determined the outcome of the assessment to initiate a Clean Water Act Section 404(c) process in the Bristol Bay watershed.

- All policies and procedures for ecological risk assessment, peer review and information quality in conducting the Bristol Bay Watershed Assessment were appropriately followed.

- In spite of a potential ethics lapse by a remotely located staffer who retired before EPA completed the Bristol Bay Watershed Assessment, there is “no evidence that any law was violated.”

On May 28, 2015, the United States Court of Appeals for the Ninth Circuit affirmed the district court’s dismissal of Pebble Limited Partnership’s (PLP’s) lawsuit challenging EPA’s authority to initiate the section 404(c) process in the Bristol Bay Watershed. In an unpublished decision, the court explained that EPA’s letter initiating the section 404(c) process failed to meet the two necessary conditions to be a final agency action subject to judicial review under the Administrative Procedure Act (APA).

Also, on May 28, 2015 the Alaska District Court heard oral arguments on EPA’s motion to dismiss one of the three lawsuits filed by the Pebble Limited Partnership against the EPA. The case involves allegations relating to the Federal Advisory Committee Act. A preliminary injunction is still in place preventing EPA from engaging in any activities related to the section 404(c) process. Following oral arguments, the Court took the case under advisement and on June 4, 2015, the court granted in part and denied in part EPA’s motion to dismiss. That litigation is ongoing.

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Fish Consumption Rate (FCR)/Human Health Water Quality Standards

(EPA Contact: Angela Chung)

Alaska: On November 12, 2015, EPA received a petition from the Southeast Alaska Conservation Council (SEACC) requesting that EPA revise the fish consumption rate and cancer risk rate that Alaska’s current human health criteria are based on. EPA also received a letter of support reiterating the request in the SEACC petition from the Chickaloon Native Village on December 16, 2015. EPA is currently reviewing the requests and preparing a response.

Idaho: IDEQ’s revised human health water quality criteria were adopted by the 2016 Idaho legislature and became effective for state purposes on March 25, 2016. IDEQ has not confirmed when it will submit the final rule to EPA for Clean Water Act review and approval. Once a state submittal is received, EPA will continue its tribal coordination and consultation work with the Idaho tribes during its review of Idaho’s final rule. In addition, EPA is coordinating and consulting with the tribes on its potential federal rulemaking proposal to revise Idaho’s human health criteria. Pursuant to a settlement agreement with the Idaho Conservation League, EPA currently has six months from the date the state submits its revised criteria (provided they submit those criteria before December 15, 2016) to approve those criteria or propose federal revised

human health criteria. If EPA does not receive a submittal from Idaho by December 15, 2016, then EPA would need to propose federal revised human health criteria for Idaho by that date (i.e., December 15, 2016).

Oregon: In 2011, EPA approved Oregon's water quality standards, which were generally based on a FCR of 175 grams/day and a 10⁻⁶ cancer risk level.

Washington: On August 1, 2016, Ecology adopted and submitted water quality standards for human health criteria and updated implementation tools to EPA for Clean Water Act review and action. On August 3, 2016, Judge Barbara Rothstein issued an order on the Parties' cross-motion for summary judgment in the litigation for EPA to federally promulgate human health criteria for Washington (Puget Soundkeeper v EPA). The order gives EPA until November 15, 2016 to act on the state's submission or sign a notice of final rulemaking.

Climate Change

(EPA Contacts: Michael Cox and Michelle Davis)

BIA awards over \$5 million to EPA Region 10 Tribes for Climate Resilience Projects

The Bureau of Indian Affairs announced funding of more than \$8.6M to federally-recognized Tribes and Alaska Native communities for tribal climate change adaptation and capacity building, ocean and coastal management planning, and youth climate opportunities. EPA Region 10 Tribes received \$5.2 million (~61%) of the funding. For an awards listing, please see the FY16 BIA TCRP Awards Summary.

2nd Annual Tribal Leaders Summit on Climate Change: Leaning into Our Resilience: Adapting Our Way

The Tulalip Tribe and the Affiliated Tribes of the Northwest Indians are hosting a two-day summit on September 14-15 at the Silver Reef Hotel Casino and Spa in Ferndale (with EPA funding) that will focus on the challenges, opportunities, and needs to best develop and implement tribal climate adaptation plans. Also, the summit will discuss tribal rights and authorities and climate change.

<http://events.constantcontact.com/register/event?llr=vlmoveeab&oeidk=a07eczbhvpv01aff1911>

EPA has released a RISK-BASED CLIMATE CHANGE ADAPTATION WORKBOOK

The workbook is a step-by-step guide to conducting a risk-based vulnerability assessment and then writing an adaptation action plan. Communities can follow the workbook steps to identify their potential climate change risks and how to consider adaptation options.

The workbook is available at https://www.epa.gov/sites/production/files/2014-09/documents/being_prepared_workbook_508.pdf

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Resource Extraction/Transport

(EPA Contacts: Teena Littleton, Erik Peterson, & Ken Marcy)

The EPA High Priority Project List for Tribes has been updated and shared with the RTOC.

Millennium Export Terminal: Public NEPA Draft Environmental Impact Statement release date is scheduled to occur during 2016. Public SEPA DEIS Comment Period ended June 13, 2016. EPA Region 10's SEPA DEIS comments are available online at the following link.

<http://www.millenniumbulkeiswa.gov/Comments/MBTL-SEPA-DEIS-0003306.html>

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GAP Guidance Implementation

(EPA Contact: Sally Thomas)

TBD

Superfund Sites – Tribal Input Process

(EPA Contacts: Beth Sheldrake (FMC OU), Davis Zhen & Cami Grandinetti (Portland Harbor & NRRB))

FMC Operable Unit of the Eastern Michaud Flats Superfund Site in Idaho

Cleanup work for the 2016 construction season started in March. Placement of soil covers to protect people and the environment from contamination on site are scheduled to be completed by December 2016. Construction has begun on a Valley Agronomics fertilizer distribution facility on a portion of the site which is not on the Shoshone-Bannock Fort Hall. The facility is scheduled to open to the public later this year. Design of the groundwater extraction and treatment system is continuing. This system is scheduled for construction in 2017.

Portland Harbor Superfund Site (Oregon)

EPA has continued to coordinate with the six Federally Recognized Tribes for the RI/FS process. The Tribes also continue to participate in the technical oversight group (with EPA and other co-regulators). In addition to these technical meetings, the Regional Administrator and National Program Director meet with the Tribes 2-3 times a year. The last meeting of these parties was held March 31, 2016. EPA follows the national and Regional policy on consultation with the Tribes which states that EPA must consult with the Tribes on any remedy decision. For Portland Harbor, the Region offered consultation to all six Federally Recognized Tribes prior to issuing the Proposed Plan, which is EPA's proposed cleanup of the site. The Region 10 Administrator and Director for the Office of Superfund Remediation and Technology Innovation have completed tribal consultations with Nez Perce, Siletz, Grand Ronde, Yakama, and Umatilla. These consultation meetings covered the remedy EPA is considering for its Proposed Plan and allowed the EPA to have meaningful dialogues with the Tribal Councils on their concerns related to the cleanup of Portland Harbor.

EPA issued the Proposed Plan for cleaning up the Portland Harbor site on June 8. After receiving several requests to extend the public comment period, EPA did extend to September 6, offering 90 days for public comment. Dennis McLerran and Jim Woolford have completed another round of government to government consultations in late July with four tribes (Grand Ronde, Umatilla, Nez Perce, and Warm Springs) per their requests. The Yakama met with the Administrator in Washington DC on July 25.

National Remedy Review Board

See NRRB for NTOC revised.doc for detailed information (available upon request)

JR Herbst

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